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Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

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Note

Symbols of United Nations documents are composed of letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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Chapter I
Introduction

1. The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization was convened in accordance with General Assembly resolution 69/122 and met at United Nations Headquarters from 17 to 25 February 2015.

2. In accordance with paragraph 5 of General Assembly resolution 50/52, the Special Committee was open to all States Members of the United Nations.

3. The Special Committee held five meetings: the 276th to 278th, on 17, 18 and 19 February, respectively, and the 279th and 280th, on 25 February. The Working Group of the Whole, established at the 276th meeting, held three meetings, on 18, 19 and 20 February.

4. The session was opened by Marcel van den Bogaard (Netherlands), in his capacity as Chair of the previous session of the Special Committee.

5. At its 276th meeting, on 17 February, the Special Committee, bearing in mind the terms of the agreement regarding the election of officers reached at its session in 1981,[1] elected the following members of its Bureau:

Chair:
Odo Tevi (Vanuatu)

Vice-Chair:
Alejandro Sousa Bravo (Mexico)
Idrees Mohammed Ali Mohammed Saeed (Sudan)

Rapporteur:
Sebastian Rogač (Croatia)

6. At its 278th meeting, on 19 February, the Special Committee elected the following member of its Bureau:

Vice-Chair:
Nadia Alexandra Kalb (Austria)

7. The Bureau of the Special Committee also served as the Bureau of the Working Group of the Whole.

8. The Director of the Codification Division of the Office of Legal Affairs acted as Secretary of the Special Committee. The Principal Legal Officer of the Division acted as Assistant Secretary of the Special Committee and Secretary of the Working Group of the Whole. The Division provided substantive services for the Special Committee and the Working Group.

9. At its 276th meeting, the Special Committee adopted the following agenda:

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.

[1] A/36/33, para. 7.

4. Organization of work.

5. Consideration of the questions referred to in General Assembly resolution 69/122, in accordance with the mandate of the Special Committee as set out in that resolution.

6. Adoption of the report.

10. The Special Committee was also invited by the General Assembly, in resolution 69/122, to consider the question of an appropriate commemoration of the seventieth anniversary of the Charter of the United Nations.

11. General statements touching on all or several items were made at the 276th and 277th meetings. Their substance is reflected in the relevant sections of the present report.

12. With regard to the question of the maintenance of international peace and security, the Special Committee had before it all the related reports of the Secretary-General,[2] including the most recent report, entitled "Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions",[3] and the 1998 report on the matter containing a summary of the deliberations and main findings of the ad hoc expert group meeting convened pursuant to paragraph 4 of General Assembly resolution 52/162.[4]

13. With regard to the question of the maintenance of international peace and security, the Special Committee also had before it a revised proposal submitted at the 1998 session by Libya with a view to strengthening the role of the United Nations in the maintenance of international peace and security;[5] a working paper[6] submitted by the Bolivarian Republic of Venezuela during the 2011 session, containing a further revised version of the proposal submitted by the same delegation at the 2010 session, entitled "Open-ended working group to study the proper implementation of the Charter of the United Nations with respect to the functional relationship of its organs";[7] a further revised version, submitted at the 2014 session,[8] of the revised working paper submitted by Belarus and the Russian Federation at the 2005 session containing a draft General Assembly resolution;[9] and

[2] A/48/573-S/26705, A/49/356, A/50/60-S/1995/1, A/50/361, A/50/423, A/51/317, A/52/308, A/53/312, A/54/383 and Add.1, A/55/295 and Add.1, A/56/303, A/57/165 and Add.1, A/58/346, A/59/334, A/60/320, A/61/304, A/62/206 and Corr.1, A/63/224, A/64/225, A/65/217, A/66/213, A/67/190 and A/68/226.

[3] A/69/119.

[4] A/53/312.

[5] See A/53/33, para. 98.

[6] A/AC.182/L.130, as further revised by the sponsor delegation. See A/66/33, annex.

[7] See A/65/33, annex.

[8] See A/69/33, para. 37.

[9] See A/60/33, para. 56. At the 1999 session of the Special Committee, Belarus and the Russian Federation submitted a working paper containing a draft General Assembly resolution (A/AC.182/L.104) in which it was recommended that an advisory opinion be requested from the International Court of Justice as to the legal consequences of the resort to the use of force by States without prior authorization by the Security Council, except in the exercise of the right to self-defence. At the same session, following discussions, the sponsors submitted a revised version of the draft resolution for future consideration (A/AC.182/L.104/Rev.1; see A/54/33, paras. 89-101). A further revised version was submitted at the 2001 session (A/AC.182/L.104/Rev.2; see A/56/33, para. 178).

a working paper submitted by Cuba on the strengthening of the role of the Organization and enhancing its effectiveness: adoption of recommendations.[10]

14. With regard to the question of the peaceful settlement of disputes, the Special Committee had before it a proposal by the Russian Federation to recommend that the Secretariat be requested to establish a website dedicated to the peaceful settlement of disputes between States and to update the *Handbook on the Peaceful Settlement of Disputes between States*.[11] It also had before it a proposal submitted on behalf of the Non-Aligned Movement entitled "Pacific settlement of disputes and its impact on the maintenance of peace".[12]

15. The Special Committee also had before it a concept paper submitted by Ghana, under "Identification of new subjects", entitled "Strengthening the relationship and cooperation between the United Nations and regional organizations or arrangements in the peaceful settlement of disputes".[13]

16. At its 280th meeting, on 25 February, the Special Committee adopted its report on its 2015 session.

[10] See A/67/33, annex.
[11] See A/69/33, para. 52 (as subsequently revised by the sponsor delegation).
[12] A/AC.182/L.138.
[13] A/AC.182/L.137.

Chapter II
Maintenance of international peace and security

A. Implementation of the provisions of the Charter relating to assistance to third States affected by the application of sanctions

17. The Special Committee considered the question of the implementation of the provisions of the Charter relating to assistance to third States affected by the application of sanctions during the general exchange of views held at its 276th and 277th meetings, on 17 and 18 February 2015, and at the 1st and 3rd meetings of the Working Group of the Whole.

18. During the general exchange of views on the issue, many delegations reiterated their concern regarding the issue of sanctions imposed by the Security Council. It was reemphasized that sanctions should not be used as blunt instruments designed to punish the population of the target country and that they were not applicable as a response to all violations of international obligations. Several delegations also made reference to the document entitled "Introduction and implementation of sanctions imposed by the United Nations" (General Assembly resolution 64/115, annex).

19. Some delegations reaffirmed their concern over the imposition of unilateral sanctions in violation of international law. It was stated that, in practice, such sanctions were often imposed as a result of the extraterritorial application of national regulations and that they infringed upon the rights of affected States, in addition to the individual rights of affected persons.

20. Several delegations reemphasized that sanctions should be introduced and applied in conformity with the provisions of the Charter and international law. It was reiterated that they should be imposed only as a last resort when there existed a threat to international peace and security, a breach of the peace or an act of aggression. It was pointed out that double standards, selectivity and arbitrary methods had no place in the practice of the Security Council. Several delegations also stressed that the Council should not exceed its competence under the Charter when implementing sanctions and that there should be a mechanism for the Council to promptly lift all sanctions when there were no grounds for having them.

21. Several delegations asserted that the objectives of sanctions regimes for a target country should be clearly defined, based on tenable legal grounds and imposed for a clear period. Some delegations voiced the opinion that the regimes should be kept under continuous review and lifted as soon as the objective of their imposition had been achieved.

22. Some delegations expressed support for examining the question of the provision of possible payment of compensation to targeted and/or third States for damage caused by sanctions found to have been unlawfully imposed. It was reiterated that the International Law Commission should give consideration, in the context of its prior work on the responsibility of international organizations, to the legal consequences of sanctions arbitrarily imposed against Member States by the Security Council.

23. Several delegations reaffirmed that sanctions, applied in accordance with the Charter and in a targeted fashion, were an important instrument for the maintenance

and restoration of international peace and security, and that the possibility of adverse consequences for civilian populations and third parties had been reduced. That was welcomed as a positive development.

24. Other delegations noted that targeted sanctions might still have unintended effects on civilian populations and on third States.

25. Several delegations noted that, as confirmed in the above-mentioned report of the Secretary-General, none of the sanctions committees had been approached by Member States since 2003 with regard to special economic problems arising from the implementation of sanctions. They also noted that neither the General Assembly nor the Economic and Social Council had found it necessary in 2014 to take any action relating to that matter. On those grounds, some delegations expressed the view that the question of assistance to third States affected by the application of sanctions should not be a matter of priority for the Special Committee and did not merit further discussion. It was also said that, while the issue should not be viewed as a matter of priority, the subject should not be removed from the agenda of the Special Committee. The view was expressed that, in accordance with paragraph 3 (b) of Assembly resolution 69/122, in which the Assembly had requested the Special Committee to consider the frequency of the consideration of the item, a compromise could be reached by deciding to examine the item every three years.

26. At the 3rd meeting of the Working Group of the Whole, a proposal was introduced to consider the agenda item every three years rather than every year, except in those cases in which one or more third States finding themselves confronting special economic problems arising from the application of sanctions appealed for assistance, whereupon the Special Committee would consider the item at its next session. Informal consultations to discuss the matter were requested, with some delegations voicing support for the proposal and others opposing it. A proposal was made that the Special Committee consider the question of the implementation of sanctions by the United Nations on an annual basis. At the same time, the possibility of having annual briefings by the Secretariat was also mentioned.

27. In the view of some delegations, the issue of assistance to third States affected by the application of sanctions, and any proposals submitted thereon, should continue to be considered by the Special Committee annually. Some delegations pointed out that the fact that no State had required assistance on the subject should not lead to a general assumption that there were no difficulties.

Briefings

28. At its 1st meeting, the Working Group of the Whole received a briefing by representatives of the Department of Political Affairs and the Department of Economic and Social Affairs of the Secretariat on developments relating to paragraph 12 of the report of the Secretary-General on the question (A/69/119), as requested by the General Assembly in paragraph 16 of its resolution 69/122.

29. Several delegations stated that the appropriate bodies of the Secretariat had the relevant authority, in accordance with General Assembly resolutions on the activities of the Special Committee, to undertake research and provide the Special Committee with further analysis of the current effects on third States of the application of sanctions in the next report of the Secretary-General on the topic. The

representative of the Department of Economic and Social Affairs indicated that, in the absence of a request from either a Member State or a sanctions committee of the Security Council to evaluate the effect of the application of sanctions on third States, no country-specific examination could be carried out by the Secretariat without an appropriate mandate, adding that the Department's methods to assist third States affected by the application of sanctions were developed and applied on a case-by-case basis rather than being wide-ranging in nature. In response to a request that the relevant Secretariat bodies be represented at a higher level and provide an all-encompassing assessment of the effect of the application of sanctions on third States, the representative of the Department reiterated that the Secretariat stood ready to respond to any request made by a sanctions committee, noting that confidential information needed to be released by the requesting committee for such an assessment to be made. The representative of the Department of Political Affairs added that the primary means of communication for Member States on questions of sanctions remained the relevant sanctions committees.

30. At its 3rd meeting, upon the request of several delegations, the Working Group of the Whole received a briefing by representatives of the Department of Political Affairs on the implementation of the document annexed to General Assembly resolution 64/115 entitled "Introduction and implementation of sanctions imposed by the United Nations". The representatives provided information on the elements of the document and responded to questions raised in that regard. Many delegations that viewed such briefings as useful and informative spoke in favour of their being held annually. Others expressed the view that the substance of the briefings was focused on the implementation of sanctions more generally and did not correspond to the item under consideration.

B. Consideration of the revised proposal submitted by Libya with a view to strengthening the role of the United Nations in the maintenance of international peace and security

31. The revised proposal submitted by Libya with a view to strengthening the role of the United Nations in the maintenance of international peace and security (see A/53/33, para. 98) was referred to in general terms during the general exchange of views held at the 276th and 277th meetings of the Special Committee, on 17 and 18 February 2015, and was considered at the 1st meeting of the Working Group of the Whole.

32. In the Working Group of the Whole, the sponsor delegation reiterated its willingness to engage in a discussion on its revised proposal with a view to reaching a common understanding of the issues raised therein.

C. Consideration of the further revised working paper submitted by the Bolivarian Republic of Venezuela entitled "Open-ended working group to study the proper implementation of the Charter of the United Nations with respect to the functional relationship of its organs"

33. The further revised working paper entitled "Open-ended working group to study the proper implementation of the Charter of the United Nations with respect to the functional relationship of its organs", submitted by the Bolivarian Republic of Venezuela at the 2011 session of the Special Committee (see A/66/33, annex), was referred to during the general exchange of views held at the 276th and 277th meetings of the Special Committee, on 17 and 18 February 2015, and was considered at the 1st meeting of the Working Group of the Whole.

34. In their general comments, several delegations reiterated their concern that the Security Council had encroached on the functions and powers of the General Assembly and the Economic and Social Council by addressing issues that fell within the competence of those organs. Some emphasized that there was a need to establish the right balance of functions and powers among each principal organ of the United Nations. Reference was again made to paragraph 153 of the 2005 World Summit outcome document (Assembly resolution 60/1) and to paragraph 35 of the declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels (Assembly resolution 67/1), in which the importance of continuing efforts to reform the Security Council was stressed.

35. Some delegations expressed support for the proposal and maintained that the Special Committee was the proper forum in which to consider it.

36. The view was reiterated that the responsibilities of the principal organs of the United Nations were adequately defined in the Charter and that the proposal was duplicative of other efforts aimed at revitalizing the Organization.

37. The sponsor delegation requested that the working paper should be retained on the work programme of the Special Committee. It announced that it would continue to hold bilateral discussions on the proposal and welcomed suggestions to further improve the working paper.

D. Consideration of the revised working paper submitted by Belarus and the Russian Federation

38. During the general exchange of views held at the 276th and 277th meetings of the Special Committee, on 17 and 18 February 2015, and at the 1st meeting of the Working Group of the Whole, the Special Committee considered the further revised working paper submitted by Belarus and the Russian Federation at the 2014 session of the Special Committee (see A/69/33, para. 37), in which it was recommended, inter alia, that an advisory opinion should be requested from the International Court of Justice as to the legal consequences of the resort to the use of force by States without prior authorization by the Security Council, except in the exercise of the right to self-defence.

39. The sponsors of the proposal highlighted the continued relevance of the subject matter of the revised working paper and its value in providing a common

understanding of the legal consequences of the resort to the use of force by States without prior authorization by the Security Council. It was pointed out that an advisory opinion would contribute to clarifying the provisions of the Charter regarding the use of force and strengthening the principle of the non-use of force. The sponsors favoured retaining the proposal on the agenda of the Special Committee and expressed their willingness to engage in discussions.

40. Several delegations reiterated their support for the proposal and its further consideration. Informal consultations on the proposal were also suggested.

41. Some delegations reiterated that they could not support the proposal.

E. Consideration of the working paper submitted by Cuba on the strengthening of the role of the Organization and enhancing its effectiveness: adoption of recommendations

42. The working paper entitled "Strengthening of the role of the Organization and enhancing its effectiveness: adoption of recommendations", a revised version of which was submitted by Cuba at the 2012 session of the Special Committee (see A/67/33, annex), was referred to during the general exchange of views held at the 276th and 277th meetings of the Special Committee, on 17 and 18 February 2015, and was considered at the 1st meeting of the Working Group of the Whole.

43. The sponsor delegation explained the rationale behind the working paper, underlining that its main objective was to look for formulas to achieve the delicate balance envisaged in the Charter between the mandates of all the principal organs and, in particular, between the mandate of the General Assembly, as the main deliberative and representative body of the Organization, and that of the Security Council. It reiterated that the working paper included five recommendations for consideration, including a study of Chapter IV of the Charter and, specifically, of its Articles 10 to 14, which pertained to the functions and powers of the Assembly.

44. During the general exchange of views, the view was expressed that, with regard to items concerning international peace and security, the Special Committee should not pursue activities that would be duplicative of or inconsistent with the roles of the principal organs of the United Nations as set forth in the Charter. The view was also expressed that a legal study of the functions and powers of the General Assembly was not needed.

45. During the general exchange of views, the sponsor delegation stressed the need to discuss the proposal from a substantive point of view. It welcomed the views expressed and invited delegations to participate in bilateral consultations. While some delegations voiced support for the proposal and confirmed their intention to engage in bilateral consultations, clarification was sought as to the status of the working paper and the content and purpose of the recommendations. In that regard, the sponsor delegation explained that it had intended to introduce changes to the working paper on the basis of bilateral consultations and that the purpose of the working paper was to reach consensus with a view to conducting a study to determine the scope of the powers of the General Assembly. As such, it was not making recommendations that would prejudge the outcome of the proposed study and welcomed proposals to amend the wording of the working paper.

46. The sponsor delegation confirmed its intention to present a revised working paper at a future session of the Special Committee and reaffirmed the contribution of the proposal to achieving the delicate balance envisaged in the Charter between the mandates of all the principal organs and, in particular, to elevate the General Assembly as the main organ of the United Nations.

F. Consideration of the question of an appropriate commemoration of the seventieth anniversary of the Charter

47. At the 276th and 277th meetings of the Special Committee, on 17 and 18 February 2015, and at the 1st meeting of the Working Group of the Whole, several delegations recalled paragraph 5 of General Assembly resolution 69/122 and expressed support for an appropriate commemoration of the seventieth anniversary of the Charter. The view was expressed that, in the light of the mandate of the Special Committee, it was incumbent on it to consider the matter. A document entitled "Full validity of the Charter of the United Nations on its seventieth anniversary" (A/AC.182/L.139) was presented by the delegation of Cuba.

48. At the 1st meeting of the Working Group of the Whole, the Secretariat confirmed that a number of events were being planned for the commemoration and a brief description of some of the expected highlights was provided. The Working Group was also informed of plans by the Department of Public Information to establish a website dedicated to the commemoration, on which the details of planned events would be made available.

49. A draft proposal was presented to the Special Committee and considered at informal meetings. Following an exchange of views and comments by several delegations, it was simplified and submitted to the Chair of the Special Committee. It did not enjoy consensus.

50. It was proposed that the commemoration should also include an intergovernmental component, taking into account the steps and activities already carried out or planned by the Organization, and that the Chair should transmit the section of the report of the Special Committee on the item to the President of the General Assembly.

Chapter III
Peaceful settlement of disputes

51. The Special Committee considered the item entitled "Peaceful settlement of disputes" during the general exchange of views held at its 276th and 277th meetings, on 17 and 18 February 2015, and at the 2nd meeting of the Working Group of the Whole.

52. During the general exchange of views, delegations expressed their support for all efforts to address the peaceful settlement of disputes. Delegations reiterated their preference that, in accordance with the mandate of the Special Committee, the question of the peaceful settlement of disputes should remain on its agenda. The importance of a free choice of means in peaceful dispute settlement was underscored. The role of the International Court of Justice as the principal judicial organ of the United Nations was reiterated. The significance of the Manila Declaration on the Peaceful Settlement of International Disputes, which had been approved by the General Assembly in 1982 and annexed to its resolution 37/10, was recalled.

A. Proposal by the Russian Federation to recommend that the Secretariat be requested to establish a website on the peaceful settlement of disputes and update the *Handbook on the Peaceful Settlement of Disputes between States*

53. During the general exchange of views, the Russian Federation recalled its proposal (see A/69/33, para. 52) that the Special Committee consider requesting the Secretariat to establish a website, within existing resources, dedicated to the peaceful settlement of disputes between States, which would include references to relevant United Nations documents, as well as to the United Nations and other organs active in the field, and to update the *Handbook on the Peaceful Settlement of Disputes between States*, prepared by the United Nations in 1992.

54. At the 2nd meeting of the Working Group of the Whole, several delegations voiced support for the proposal. The view was expressed that such endeavours would be beneficial to Member States, and especially smaller States, in providing them with access to the latest information on mechanisms for the peaceful settlement of disputes in a single centralized location, which would in turn help to foster greater resort to such mechanisms and promote the rule of law at the international level.

55. Other delegations expressed reservations as to the added value of either undertaking, with some pointing out that all the information in question was readily accessible online. Concern was expressed regarding the reference to "United Nations documents" and what it would imply if some documents were included while others were not. The feasibility of updating the *Handbook* was also questioned, given the broad range of actors involved in activities relating to the peaceful settlement of disputes. Concern was also expressed that, even if such work could be undertaken within existing resources, it would not be a proper prioritization of the scarce resources allocated to the Secretariat. Concern was also raised as to the reference to "other organs" active in the field of the peaceful settlement of disputes, given that it was unclear whether the phrase referred to the

other organs of the United Nations or also to other organizations. Several delegations stated that it was for the Fifth Committee, and not the Special Committee, to consider the financial implications of the proposal and that only the substantive aspects should be examined.

B. Proposal submitted on behalf of the Non-Aligned Movement entitled "Pacific settlement of disputes and its impact on the maintenance of peace"

56. The proposal submitted on behalf of the Non-Aligned Movement entitled "Pacific settlement of disputes and its impact on the maintenance of peace" (A/AC.182/L.138), as reproduced in annex I to the present report, was referred to during the general exchange of views held at the 276th and 277th meetings of the Special Committee, on 17 and 18 February 2015, and was considered at the 2nd meeting of the Working Group of the Whole.

57. In its general statement and in the Working Group of the Whole, the delegation of the Islamic Republic of Iran, on behalf of the Non-Aligned Movement, explained that the proposal was aimed at obtaining an assessment of the current use of peaceful means for the settlement of disputes and expressed the view that the suggested annual review of the issue by the Special Committee would contribute to the more efficient and effective use of such peaceful means, in accordance with Chapter VI of the Charter. It was also pointed out that the proposal was intended to ensure that the Security Council exhausted the measures set out in Chapter VI, while avoiding the resort to Chapter VII in the absence of an actual threat to international peace and security.

58. Many delegations, both in the general exchange of views and in the Working Group of the Whole, reiterated their commitment to the peaceful settlement of international disputes. Several delegations expressed their support for the proposal. Some delegations highlighted the importance of good faith. Several delegations observed that the proposal was timely, given the commemoration of the seventieth anniversary of the Charter, and that it accorded with the Manila Declaration. The view was also expressed that it was of paramount importance for the States Members of the United Nations to reiterate their commitment to settling disputes through peaceful means. The need for parties to a dispute to refrain from taking unilateral measures that could frustrate the solution of the dispute was underlined. Other delegations, while welcoming the proposal, requested more time for reflection and consultation. A preliminary general concern expressed was that the outcome of the proposal was not clear and that it overlapped with discussions under way in other forums of the Organization. It was also stated that the Special Committee should avoid considering questions relating to the recourse to force, which were already dealt with in the Charter.

59. At the 2nd meeting of the Working Group of the Whole, in introducing the substance of the proposal, the delegation of the Islamic Republic of Iran, on behalf of the Non-Aligned Movement, indicated that the preambular paragraphs tracked the language of the relevant provisions of the Charter, including Article 33. In the ensuing discussion, concern was expressed that it was not clear what the outcome of operative paragraphs 1 and 2 would be, and the formulation of the fifth preambular paragraph suggested that the Special Committee would be reviewing the activities

of the Security Council. It was recalled, in relation to the sixth preambular paragraph, that Article 33 envisaged the resort to other peaceful means (such as the good offices of the Secretary-General). The principle of the free choice of means in peaceful dispute settlement was highlighted. Another view expressed was that Article 33 envisaged a hierarchy in the taking of means. In relation to the seventh preambular paragraph, several delegations expressed the view that it did not reflect the provisions of the Charter. Concerning the eighth preambular paragraph, it was suggested that the word "should" be replaced with "must", so as to indicate that a legal obligation was being envisaged. In response to a query as to the appropriateness of referring, in the ninth preambular paragraph, to a set of articles that were, strictly speaking, non-binding, it was pointed out that the articles on responsibility of States for internationally wrongful acts were increasingly viewed as reflecting customary international law.

60. It was explained that operative paragraph 1 was intended to establish a process whereby an annual evaluation of the resort to peaceful means for the settlement of disputes would be undertaken by the Special Committee. The view was expressed, however, that the paragraph was unnecessary because the question already featured in the programme of work of the Special Committee.

61. Under operative paragraph 2, the Special Committee would reflect the outcome of the consideration envisaged in operative paragraph 1 in its annual report to the Sixth Committee and the Secretariat would be entrusted with preparing an annual compilation of the use of peaceful means, which would include information received from Governments. The view was expressed that much of the information envisaged was already available on the Internet. Another view was that that information was scattered and inconsistent and a report by the Secretariat would usefully compile the necessary information in a form that could be considered by Member States. Clarification was sought as to the scope of the envisaged report, including whether it would encompass the question of peaceful settlement in general terms or whether reference would be made to specific disputes (both those settled and those not yet settled). Concern was also expressed that it would not be appropriate to request the Secretariat to undertake the kind of classification and assessment being envisaged. In addition, it was unclear whether a quantitative or qualitative assessment would be sought. Clarification was requested as to the nature of the recommendations that the Sixth Committee might consider on the basis of the envisaged reports of the Secretariat and the Special Committee.

62. In operative paragraph 3, the Special Committee would suggest that the International Law Commission be requested to undertake a study on the obligation of States to use peaceful means for settling their international disputes. It was clarified that it would be for the General Assembly to decide whether to request such a study. Doubt was expressed as to whether it would be advisable to address such a request to the Commission.

63. At the 280th meeting of the Special Committee, on 25 February 2015, the delegation of the Islamic Republic of Iran, on behalf of the Non-Aligned Movement, observed that the draft proposal opened a new space for United Nations bodies and the Special Committee to consider the use of means for the peaceful settlement of disputes. It expressed the view that an annual review of the issue by the Special Committee would contribute to the more efficient and effective use of means for the peaceful settlement of disputes, in line with the provisions of Chapter VI of the

Charter. The Non-Aligned Movement would further work on the text of the draft proposal and present a revised version at the 2016 session of the Special Committee for its consideration under "Peaceful settlement of disputes".

Chapter IV

Repertory of Practice of United Nations Organs and *Repertoire of the Practice of the Security Council*

64. During the general exchange of views held at the 276th and 277th meetings of the Special Committee, on 17 and 18 February 2015, delegations commended the continuing efforts of the Secretariat to update the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* and to eliminate the backlog in their preparation. The significance of the two publications as sources of reference and effective means to maintain the institutional memory of the Organization and their importance in the dissemination of the work of the Organization were recalled. The contribution made by the publications to the advancement of international justice was commended. Several delegations emphasized the need to eliminate the backlog with regard to volume III of the *Repertory*. The hope was expressed that the publications would be published on the United Nations website in the official languages of the Organization.

65. Delegations expressed appreciation to those Member States that had contributed to the two trust funds established for the *Repertory* and the *Repertoire*, which had facilitated the progress in eliminating the backlog with regard to those publications, and encouraged Member States to make additional contributions.

66. At its 2nd meeting, the Working Group of the Whole was informed by representatives of the Secretariat about the status of the preparation of the *Repertory* and the *Repertoire*.

67. It was reported that the Interdepartmental Committee on Charter Repertory had met recently and decided, on the basis of past experience, that Supplement No. 11 would cover a period of six years, 2010 to 2015.

68. Concerning the status of the *Repertory*, it was reported that a study on Article 53 for volume III, Supplements 7 to 9 (1985-1999), had been completed and would soon be submitted to the Department of Peacekeeping Operations, the author department, and that research was being undertaken by the Faculty of Law of the University of Ottawa in relation to studies on Articles 52 and 54. A study on Article 16 for Supplement 10 (2000-2009) had been finalized, thus completing volume II, which was scheduled to be submitted for publication in 2015, and work was ongoing on other studies pertaining to that Supplement.

69. The partnership with Columbia Law School had continued for the twelfth consecutive year, resulting in the preparation of one study being completed in the past year. Cooperation with the University of Ottawa had also continued, two studies pertaining to Supplements 7 to 9 and three studies pertaining to Supplement 10 being currently under way. The Secretariat was also assisted by the work of interns.

70. Since the establishment of the trust fund in 2005, more than $136,000 had been donated. After the use of part of the funds for the preparation of *Repertory* studies, approximately $36,000 remained available in the trust fund.

71. With regard to the *Repertoire*, it was pointed out that, in the past year, the Security Council Practices and Charter Research Branch of the Security Council Affairs Division had worked on Supplements 17 and 18, covering the period from 2010 to 2013.

72. The entire volume of Supplement 17, covering the years 2010 and 2011, had been completed and made available electronically in an advance version on the Security Council website in June 2014. The groundwork on Supplement 18, covering 2012 and 2013, had been carried out systematically over the past two years by recording the most contemporary practice of the Council in an internal database and compiling the relevant documentation. Several chapters of that Supplement would be made available on the website in the second of half of 2015. Progress in the work on Supplement 18 would depend on the availability of resources. Work was also continuing on translating the *Repertoire* into all the official languages and publishing the completed Supplements covering the period from 1993 to 2009.

73. It was also emphasized that, in addition to electronic versions of the *Repertoire*, the Security Council website contained, for example, tables and graphs providing an overview of historical trends relating to the work of the Council, highlights of Council practice for 2013 and a table showing components of the mandates of current peacekeeping and political missions, which allowed for comparison of current mandates over time and across missions.

74. Following the reports by representatives of the Secretariat, several delegations sought clarification regarding the modalities of cooperation with academic institutions and associate experts. With a view to reducing the backlog in preparing the *Repertory*, it was suggested that the cooperation with academic institutions could be extended, to possibly also include translation services, if feasible, and that efforts should be undertaken, in consultation with Member States, to identify associate experts. The Secretariat explained that it had cooperated with more academic institutions in the past and that it was open to extending its cooperation programmes in the future. It was further noted that, consistent with the mandate given by the General Assembly, the *Repertory* was prepared only in English, French and Spanish.

75. The Special Committee recommends that the General Assembly:

(a) Commend the Secretary-General for the progress made in the preparation of studies for the *Repertory of Practice of United Nations Organs*, including the increased use of the internship programme of the United Nations and further expanded cooperation with academic institutions for this purpose, as well as the progress made towards updating the *Repertoire of the Practice of the Security Council*;

(b) Note with appreciation the contributions made by Member States to the trust fund for the elimination of the backlog in the *Repertory*, as well as the trust fund for the updating of the *Repertoire*;

(c) Reiterate its call for voluntary contributions to the trust fund for the elimination of the backlog in the *Repertory* so as to further support the Secretariat in carrying out the effective elimination of that backlog; voluntary contributions to the trust fund for the updating of the *Repertoire*; and the sponsoring, on a voluntary basis and with no cost to the United Nations, of associate experts to assist in the updating of the two publications;

(d) Call upon the Secretary-General to continue his efforts towards updating the two publications and making them available electronically in all their respective language versions;

(e) Note with concern that the backlog in the preparation of volume III of the *Repertory*, although slightly reduced, has not been eliminated, and call upon the Secretary-General to address that issue effectively and on a priority basis, while commending the Secretary-General for progress made in reducing the backlog;

(f) Reiterate the responsibility of the Secretary-General for the quality of the *Repertory* and the *Repertoire*, and with regard to the *Repertoire* call upon the Secretary-General to continue to follow the modalities outlined in paragraphs 102 to 106 of his report dated 18 September 1952 (A/2170).

Chapter V
Working methods of the Special Committee and identification of new subjects

A. Working methods of the Special Committee

76. The issue of the working methods of the Special Committee was addressed by several delegations during the general exchange of views held at the 276th and 277th meetings of the Special Committee, on 17 and 18 February 2015, and was considered at the 3rd meeting of the Working Group of the Whole.

77. Several delegations stressed that there was a need to reinvigorate the work of the Special Committee, especially in the light of the seventieth anniversary of the Charter. The potential of the Special Committee to assist in the revitalization of the Organization was also noted.

78. Several delegations continued to urge the Special Committee to consider, on a priority basis, ways and means of improving its working methods and enhancing its efficiency, and to fully implement the decision on working methods adopted in 2006, as reflected in paragraph 3 (e) of General Assembly resolution 69/122. Several delegations emphasized that there was a need for States to review all existing agenda items, looking into the usefulness of further discussing them, and taking into account their continued relevance and the likelihood of reaching a consensus in the future before considering new items.

79. Some delegations reiterated that the work of the Special Committee should be reviewed to ensure that the overlap between organs considering the same or similar issues was eliminated and that items that had been considered elsewhere were not duplicated by the Special Committee. Several delegations reaffirmed that the Special Committee should examine the frequency and duration of its meetings, perhaps by meeting every two years or shortening its sessions. Some delegations expressed the view that the Special Committee should discuss how to use its time and resources most efficiently.

80. Some delegations spoke against any proposal to shorten the duration of the sessions or not to convene the Special Committee annually. It was also pointed out that there should be greater possibilities for substantive and constructive debates on existing and new proposals. It was suggested that the Bureau of the Special Committee should be appointed three months before its session so as to allow for sufficient planning and preparation, including the advance circulation of documents.

81. Stress was laid on the significant potential of the Special Committee, as highlighted by the landmark instruments that it had produced, including the Manila Declaration. Several delegations reemphasized that the full execution of the mandate of the Special Committee depended on the political will of States and on the full implementation and optimization of the methods of work of the Special Committee, including the configuration of a solid thematic agenda that would allow for the optimal use of resources. It was also suggested that some States were blocking the consideration of proposals before the Special Committee without presenting any substantive arguments as to their reasoning.

82. Several delegations placed special emphasis on continuing to consider items and proposals regarding the question of the maintenance of international peace and

security, in particular those addressing the functions of the General Assembly. It was also observed by several delegations that the Special Committee was the appropriate forum for the consideration of reform proposals that would enhance the effectiveness of the Organization.

B. Identification of new subjects

83. The issue of the identification of new subjects was considered during the general exchange of views held at the 276th and 277th meetings of the Special Committee, on 17 and 18 February 2015, and at the 3rd meeting of the Working Group of the Whole.

84. A number of delegations recalled the new subjects proposed at previous sessions of the Special Committee and called for their meaningful consideration. Several delegations stated that the Special Committee could contribute to the examination of legal matters relating to the reform and revitalization of the Organization and its organs, including issues surrounding the roles and prerogatives of the General Assembly and the Security Council. The view was also expressed that the consideration by the Special Committee of new proposals relating to the maintenance of international peace and security would contribute to the strengthening of the role of the Organization.

85. The view was presented that the Special Committee should consider no new proposals that might entail amendments to the Charter without the express mandate of the General Assembly; such proposals might be considered only in the overall context of United Nations reform and with caution. It was suggested that the Special Committee should be cautious about adding new subjects to its work programme and that any new subjects should be practical and non-political.

86. At the 3rd meeting of the Working Group of the Whole, the representative of Ghana introduced a proposal entitled "Concept paper by Ghana on strengthening the relationship and cooperation between the United Nations and regional organizations or arrangements in the peaceful settlement of disputes" (A/AC.182/L.137), as reproduced in annex II to the present report, pointing out that it took into account the important role played by regional organizations in the attainment of the overall objectives of the United Nations. It was highlighted that the proposal was aimed at filling any gaps that existed between the United Nations and regional organizations with regard to the coordination of their activities, for example in such areas as regional security, preventive diplomacy, peacekeeping and post-conflict peacebuilding. It was requested that the proposal should be considered under "Maintenance of international peace and security" rather than under "Identification of new subjects".

87. Several delegations voiced support for the proposal, with some expressing the view that it would be more appropriate to consider the proposal under "Peaceful settlement of disputes". The view was expressed by some delegations that further examination of the relationship between the United Nations and regional organizations in the context of the peaceful settlement of disputes would be fruitful, the previous General Assembly resolutions on the matter notwithstanding. The importance of such regional organizations acting in conformity with the Charter when contributing to the maintenance of international peace and security was stressed. It was also suggested that the use of the terms "regional organizations" and

"regional agencies or arrangements" should be harmonized so as to better reflect the language used in the Charter.

88. Other delegations stressed the importance of identifying gaps and avoiding duplication with discussions pertaining to the relationship between the United Nations and regional organizations being held in other forums of the Organization, such as the Special Committee on Peacekeeping Operations. It was also suggested that reference should be made in the proposal to General Assembly resolutions, Security Council resolutions and statements and other documents regarding regional cooperation.

89. It was suggested that the proposal should be improved by formulating specific recommendations on the subject matter, making it more action-oriented and clarifying its objectives.

90. The sponsor delegation expressed its readiness to accommodate the constructive comments made and indicated its intention to submit a revised proposal for the consideration of the Special Committee at its 2016 session, under "Maintenance of international peace and security".

Annex I

Proposal of the Non-Aligned Movement on the pacific settlement of disputes and its impact on the maintenance of peace

The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization,

Expressing the importance that the United Nations bring about by peaceful means the settlement of international disputes which might lead to a breach of the peace, taking into consideration that there are disputes in current international relations that could endanger international peace and security,

Recalling that the Manila Declaration on the Peaceful Settlement of International Disputes was the first instrument adopted by the General Assembly as a result of the work of the Special Committee,

Reaffirming the provisions of Chapter VI of the Charter of the United Nations and its commitment to peaceful means for the settlement of disputes,

Recalling that, as provided in Article 2, paragraph 4, of the Charter, all States Members of the United Nations shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

Reaffirming that the Charter, in Article 33, paragraph 1, stipulates that the parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice,

Affirming that the Security Council should fully implement the relevant provisions of Chapter VI, in particular Article 33, paragraph 2, and avoid resorting to Chapter VII of the Charter as a general framework to address conflicts which do not necessarily represent a threat to international peace and security,

Reaffirming that all States should observe the provisions of the Charter,

Noting the draft of the articles on the responsibility of States for internationally wrongful acts, which have been commended to the attention of Governments, without prejudice to the question of their future adoption or other appropriate action,

1. *Decides* to consider on an annual basis, the use of peaceful means for the settlement of disputes, in accordance with the provisions of Chapter VI of the Charter of the United Nations;

2. *Also decides* to reflect the results of the consideration of this issue in its annual report to the Sixth Committee, and requests the Secretariat to prepare for the Sixth Committee an annual compilation of the use of peaceful means for the settlement of disputes in accordance with the provisions of Chapter VI of the Charter and to invite Governments to submit information on their practice in this regard;

3. *Suggests* that the International Law Commission consider including in its programme of work, a study on the obligation of States to use peaceful means for settling their international disputes.

Annex II

Concept paper by Ghana on strengthening the relationship and cooperation between the United Nations and regional organizations or arrangements in the peaceful settlement of disputes

Introduction

Under Article 33 of the Charter of the United Nations, Member States that are party to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, are first to seek a solution through one of the peaceful methods or means stipulated therein, one of which is the resort to regional agencies or arrangements.

The need for peaceful settlement of disputes as envisaged under Article 33 of the Charter was underscored by the General Assembly in its resolution 37/10, by which it approved the Manila Declaration on the Peaceful Settlement of International Disputes and acknowledged the role of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization in elaborating the text of the Declaration.

The Charter establishes the Security Council as the principal organ charged with the responsibility for maintaining international peace and security, while foreseeing a role for regional agencies or arrangements, especially with regard to the peaceful settlement of disputes. Under Chapter VIII, regional organizations are encouraged to contribute towards the maintenance of peace and security insofar as such efforts are in accordance with the Charter. The Council is to utilize regional agencies or arrangements, but regional arrangements may take enforcement action only with the authorization of the Council.

In addition, Article 54 provides that the Security Council must at all times be kept fully informed of activities undertaken or contemplated by regional organizations for the maintenance of international peace and security.

Main elements

The Special Committee has had occasions in the past decades to consider principles that should guide the relationship between the United Nations and regional organizations or arrangements, as Member States have expected the United Nations to play a greater role in the maintenance of international peace and security and respond to global threats and challenges more effectively.

The past efforts of the Special Committee in considering and even adopting such guiding principles notwithstanding, recent historical and contemporary experiences of the international community, including the United Nations and regional arrangements or organizations, in various undertakings to address situations that threatened international peace and security have underscored the imperative to promote better coordination and cooperation between the United Nations and regional organizations.

Given the significant role that regional organizations play in promoting the rule of law, human rights and international humanitarian law in the maintenance of

peace and security, it is necessary for the United Nations, including both the General Assembly and the Security Council, to explore urgent measures to improve the working relationship with regional organizations towards the peaceful settlement of disputes.

Such measures will include exploring institutional mechanisms to enable more effective and timely interaction and strategic cooperation between the Organization and regional organizations. In so doing, the Special Committee could not only build on its past work on this topic, but also draw from various seminal reports of the Secretary-General, including those entitled "An Agenda for Peace" (A/47/277-S/24111) and "In larger freedom: towards development, security and human rights for all" (A/59/2005), which highlight such ideas as:

- Regional security
- Role that regional organizations could play in preventive diplomacy
- Early warning systems
- Peacekeeping and post-conflict peacebuilding and means by which the United Nations could work with regional organizations in more predictable and reliable partnerships

Other reports of the United Nations organs dealing with those subjects may also be relevant.

Recent challenges have underlined the urgent necessity for the Special Committee to reactivate and revisit the topic of the need to strengthen the cooperation, coordination and relationship between the United Nations and regional organizations in the peaceful settlement of disputes that threaten international peace and security. Those challenges include the perception that the United Nations has in some cases not succeeded in effectively cooperating with regional organizations, while in other cases there has been a lack of clarity as to how the Organization might engage in situations concerning multiple regional organizations or arrangements at the same time.

In addition, revisiting the topic will offer Member States an opportunity to assess the degree of compliance with or implementation of the Declaration as it enters its twentieth anniversary, with a view to addressing any apparent gaps or shortcomings at the level of cooperation and working relationships between the United Nations and regional arrangements in the context of the peaceful settlement of disputes.

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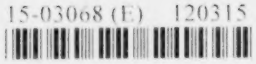

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